

# HOUSE BILL No. 1366

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.5-7; IC 36-7-37.

**Synopsis:** Rural entrepreneurship area incentives. Permits the office of community and rural affairs (office) to designate an applicant rural county as a rural entrepreneurship area development incentives area (READI area). Provides for the distribution of adjusted gross income taxes annually paid by employees working in an area for a new business or annually paid by additional employees in an existing business and by the new business itself to the rural county for the development of new business opportunities in the rural county, including transfers to local or regional venture capital funds. Limits the amount that may be distributed to a particular county in a state fiscal year to \$250,000. Limits the total amount that may be distributed to all counties in a state fiscal year to \$5,000,000. Requires matching local funds to qualify for a distribution. Specifies the authorized sources of the matching local funds. Appropriates money collected from counties with a READI area for distribution to those counties. Specifies the types of projects that may be funded from a county's rural entrepreneurship area development incentives fund, upon appropriation by the county fiscal body and after recommendation by a local economic development organization in the county.

**Effective:** Upon passage.

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## Heuer, Beumer, Zent

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January 15, 2014, read first time and referred to Committee on Commerce, Small Business and Economic Development.

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Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1366

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A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 6-3.5-7-13.5, AS ADDED BY P.L.137-2006,  
2       SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 13.5. (a) The general assembly finds that  
4       counties and municipalities in Indiana have a need to foster economic  
5       development, the development of new technology, and industrial and  
6       commercial growth. The general assembly finds that it is necessary and  
7       proper to provide an alternative method for counties and municipalities  
8       to foster the following:  
9       (1) Economic development.  
10       (2) The development of new technology.  
11       (3) Industrial and commercial growth.  
12       (4) Employment opportunities.  
13       (5) The diversification of industry and commerce.  
14       The fostering of economic development and the development of new  
15       technology under this section or section 13.6 of this chapter for the  
16       benefit of the general public, including industrial and commercial



enterprises, is a public purpose.

(b) The fiscal bodies of two (2) or more counties or municipalities may, by resolution, do the following:

(1) Determine that part or all the taxes received by the units under this chapter should be combined to foster:

(A) economic development;

(B) the development of new technology; and

(C) industrial and commercial growth.

(2) Establish a regional venture capital fund.

(c) Each unit participating in a regional venture capital fund established under subsection (b) may deposit the following in the fund:

(1) Taxes distributed to the unit under this chapter.

(2) The proceeds of public or private grants.

**(3) Revenues received by a county under IC 36-7-37.**

(d) A regional venture capital fund shall be administered by a governing board. The expenses of administering the fund shall be paid from money in the fund. The governing board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund. The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of the audit.

(e) The fiscal body of each participating unit shall approve an interlocal agreement created under IC 36-1-7 establishing the terms for the administration of the regional venture capital fund. The terms must include the following:

(1) The membership of the governing board.

(2) The amount of each unit's contribution to the fund.

(3) The procedures and criteria under which the governing board may loan or grant money from the fund.

(4) The procedures for the dissolution of the fund and for the distribution of money remaining in the fund at the time of the dissolution.

(f) An interlocal agreement made by the participating units under subsection (e) must provide that:

(1) each of the participating units is represented by at least one (1) member of the governing board; and

(2) the membership of the governing board is established on a bipartisan basis so that the number of the members of the governing board who are members of one (1) political party may not exceed the number of members of the governing board required to establish a quorum.



(g) A majority of the governing board constitutes a quorum, and the concurrence of a majority of the governing board is necessary to authorize any action.

(h) An interlocal agreement made by the participating units under subsection (e) must be submitted to the Indiana economic development corporation for approval before the participating units may contribute to the fund.

(i) A majority of members of a governing board of a regional venture capital fund established under this section must have at least five (5) years of experience in business, finance, or venture capital.

(j) The governing board of the fund may loan or grant money from the fund to a private or public entity if the governing board finds that the loan or grant will be used by the borrower or grantee for at least one (1) of the following economic development purposes:

(1) To promote significant employment opportunities for the residents of the units participating in the regional venture capital fund.

(2) To attract a major new business enterprise to a participating unit.

(3) To develop, retain, or expand a significant business enterprise in a participating unit.

(k) The expenditures of a borrower or grantee of money from a regional venture capital fund that are considered to be for an economic development purpose include expenditures for any of the following:

(1) Research and development of technology.

(2) Job training and education.

(3) Acquisition of property interests.

(4) Infrastructure improvements.

(5) New buildings or structures.

(6) Rehabilitation, renovation, or enlargement of buildings or structures.

(7) Machinery, equipment, and furnishings.

(8) Funding small business development with respect to:

(A) prototype products or processes;

(B) marketing studies to determine the feasibility of new products or processes; or

(C) business plans for the development and production of new products or processes.

SECTION 2. IC 6-3.5-7-13.6, AS ADDED BY P.L.137-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.6. (a) The fiscal body of a county or municipality may, by resolution, establish a local venture capital fund.



(b) A unit establishing a local venture capital fund under subsection (a) may deposit the following in the fund:

- (1) Taxes distributed to the unit under this chapter.
- (2) The proceeds of public or private grants.

**(3) Revenues received by a county under IC 36-7-37.**

(c) A local venture capital fund shall be administered by a governing board. The expenses of administering the fund shall be paid from money in the fund. The governing board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund. The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of the audit.

(d) The fiscal body of a unit establishing a local venture capital fund under subsection (a) shall establish the terms for the administration of the local venture capital fund. The terms must include the following:

- (1) The membership of the governing board.
- (2) The amount of the unit's contribution to the fund.
- (3) The procedures and criteria under which the governing board may loan or grant money from the fund.
- (4) The procedures for the dissolution of the fund and for the distribution of money remaining in the fund at the time of the dissolution.

(e) A unit establishing a local venture capital fund under subsection (a) must be represented by at least one (1) member of the governing board.

(f) The membership of the governing board must be established on a bipartisan basis so that the number of the members of the governing board who are members of one (1) political party may not exceed the number of members of the governing board required to establish a quorum.

(g) A majority of the governing board constitutes a quorum, and the concurrence of a majority of the governing board is necessary to authorize any action.

(h) The terms established under subsection (d) for the administration of the local venture capital fund must be submitted to the Indiana economic development corporation for approval before a unit may contribute to the fund.

(i) A majority of members of a governing board of a local venture capital fund established under this section must have at least five (5) years of experience in business, finance, or venture capital.

(j) The governing board of the fund may loan or grant money from



the fund to a private or public entity if the governing board finds that the loan or grant will be used by the borrower or grantee for at least one

(1) of the following economic development purposes:

(1) To promote significant employment opportunities for the residents of the unit establishing the local venture capital fund.

(2) To attract a major new business enterprise to the unit.

(3) To develop, retain, or expand a significant business enterprise in the unit.

(k) The expenditures of a borrower or grantee of money from a local venture capital fund that are considered to be for an economic development purpose include expenditures for any of the following:

(1) Research and development of technology.

(2) Job training and education.

(3) Acquisition of property interests.

(4) Infrastructure improvements.

(5) New buildings or structures.

(6) Rehabilitation, renovation, or enlargement of buildings or structures.

(7) Machinery, equipment, and furnishings.

(8) Funding small business development with respect to:

(A) prototype products or processes;

(B) marketing studies to determine the feasibility of new products or processes; or

(C) business plans for the development and production of new products or processes.

SECTION 3. IC 36-7-37 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 37. Rural Entrepreneurship Area Development Incentives**

**Sec. 1. This chapter applies to a rural county.**

**Sec. 2. The purpose of this chapter is to:**

(1) establish and fund programs to identify entrepreneurs with marketable ideas; and

(2) support the organization and development of new businesses in rural counties.

**Sec. 3. The general assembly finds that establishing and supporting new businesses in rural counties serve a public purpose that benefits the general welfare of rural counties by encouraging investment, job creation and retention, economic growth, and more diverse economies.**

**Sec. 4. As used in this chapter, "agreement" refers to an**



1 agreement between the office and a county establishing the terms  
2 and conditions governing an area established under this chapter.

3 Sec. 5. As used in this chapter, "area" refers to a rural  
4 entrepreneurship area development incentives area established  
5 under this chapter.

6 Sec. 6. As used in this chapter, "corporation" refers to the  
7 Indiana economic development corporation.

8 Sec. 7. As used in this chapter, "department" refers to the  
9 department of state revenue.

10 Sec. 8. As used in this chapter, "income tax incremental  
11 revenue" means the remainder of:

12 (1) the sum of:

13 (A) the total amount of state adjusted gross income taxes  
14 paid by employees of new businesses, regardless of county  
15 of residence, that are employed in any part of the territory  
16 comprising an area with respect to wages and salary  
17 earned for work in the area for a particular state fiscal  
18 year;

19 (B) the total amount of state adjusted gross income taxes  
20 paid by additional employees of existing businesses in the  
21 territory, regardless of county of residence, that are  
22 employed as a result of expansion after the date of the  
23 establishment of the territory with respect to wages and  
24 salary earned for work in the area for a particular state  
25 fiscal year; plus

26 (C) the total amount of state adjusted gross income taxes  
27 paid by new businesses located in any part of the territory  
28 comprising an area with respect to income sourced to the  
29 area for a particular state fiscal year; minus

30 (2) the sum of:

31 (A) the tax credits awarded by the corporation under  
32 IC 6-3.1-13 to new businesses operating in the territory  
33 comprising an area as the result of wages earned for work  
34 in any part of the territory comprising an area for the state  
35 fiscal year; plus

36 (B) the total amount of the incremental state adjusted  
37 gross income taxes paid by existing businesses as a result  
38 of expansion with no state incentives and with creation of  
39 one (1) or more additional jobs, located in any part of the  
40 territory comprising an area with respect to income  
41 sourced to the area for a particular state fiscal year, after  
42 the date of the establishment of the territory;



as determined by the department.

Sec. 9. As used in this chapter, "incubator" means a facility in which space may be leased by a tenant and in which management provides access to business development services for use by tenants.

Sec. 10. As used in this chapter, "office" refers to the office of community and rural affairs established by IC 4-4-9.7-4.

Sec. 11. As used in this chapter, "new business" refers to a business entity certified by the office as a new business under section 19 of this chapter.

Sec. 12. As used in this chapter, "READI fund" refers to a rural entrepreneurship area development incentives fund established by a rural county under section 23 of this chapter.

Sec. 13. As used in this chapter, "rural county" refers to a county having a population of less than fifty thousand (50,000).

Sec. 14. As used in this chapter, "tax incentive zone" refers to the territory of any of the following:

(1) A community revitalization enhancement district established under IC 36-7-13.

(2) A professional sports and convention development area established under IC 36-7-31.3.

(3) A certified technology park established under IC 36-7-32.

(4) Any other area in which a law permits adjusted gross income taxes imposed on a taxable event in the area to be distributed to an employer located in the area or a political subdivision in the area for a local business, economic development, or a governmental purpose.

Sec. 15. (a) The county executive of a rural county may apply to the office for designation of the county as a rural entrepreneurship area development incentives area. The application must:

(1) be in a form specified by the office;

(2) include a copy of an ordinance adopted by the county executive designating the territory of the county that is outside the boundaries of a tax incentive zone as an area;

(3) include a copy of an ordinance adopted by the county executive:

(A) committing up to two hundred fifty thousand dollars (\$250,000) of local funds each state fiscal year for a dollar-for-dollar match to the income tax incremental revenue received from the treasurer of state under section 22 of this chapter; and

(B) specifying the source or sources of the funds





- 1 committed; and
- 2 (4) include information that the office determines necessary
- 3 for evaluating the application under section 16 of this chapter.
- 4 (b) The local match required by subsection (a)(3) may be funded
- 5 from any of the following:
- 6 (1) In the case of a county that has adopted the county
- 7 economic development income tax under IC 6-3.5-7:
- 8 (A) at least fifty percent (50%) of the local match must be
- 9 funded by county economic development income tax
- 10 revenue; and
- 11 (B) the remaining part of the local match may be funded
- 12 from any of the following:
- 13 (i) Any public funds (other than property taxes) of the
- 14 county or the county redevelopment commission.
- 15 (ii) Any contributions, grants, donations, or bequests
- 16 from an individual or a private entity.
- 17 (2) In the case of a county that has not adopted the county
- 18 economic development income tax under IC 6-3.5-7, the local
- 19 match may be funded from any of the following:
- 20 (A) Any public funds (other than property taxes) of the
- 21 county or the county redevelopment commission.
- 22 (B) Any contributions, grants, donations, or bequests from
- 23 an individual or a private entity.
- 24 Sec. 16. (a) The office may approve an application from a rural
- 25 county and designate the county as an area if the county executive:
- 26 (1) submits a written plan for supporting entrepreneurship
- 27 and the establishment of new businesses in the area that meets
- 28 the requirements of the office; and
- 29 (2) agrees in writing to the terms and conditions specified by
- 30 the office.
- 31 (b) The territory of an area designated under this section
- 32 consists of all the territory in the county that is outside the
- 33 boundaries of a tax incentive zone.
- 34 Sec. 17. An area is established on the date on which the county
- 35 approved under section 16 of this chapter and the office enter into
- 36 a written agreement specifying the terms and conditions governing
- 37 the area. An area continues in existence until the earliest of the
- 38 following:
- 39 (1) January 1, 2025.
- 40 (2) The date specified in an ordinance adopted by the county
- 41 executive nominating the county for designation as an area.
- 42 (3) The date the office terminates the area under section 21 of



1           this chapter.

2           **Sec. 18.** The office shall send a certified copy of the designation  
3 of a county as an area to the department.

4           **Sec. 19.** The office shall determine whether a business in a rural  
5 county is a new business and may certify the business as a new  
6 business if the office determines that the new business meets all the  
7 following criteria:

8           (1) The business is established or organized to do business in  
9 Indiana less than one (1) year before the business locates  
10 business operations in an area.

11           (2) The business initially locates business operations in an  
12 area after the date the area is designated as an area by the  
13 office.

14           (3) The business conducts business operations in the area to  
15 provide goods or services for profit.

16           (4) The business meets any other criteria specified by the  
17 office.

18           **Sec. 20.** (a) The county auditor of a county designated as an area  
19 shall send to the department:

20           (1) a certified copy of the designation of the county as an area;

21           (2) a certified copy of the agreement entered into with the  
22 office for the area; and

23           (3) a complete list of the new business employers in the area,  
24 including any other identifying information required by the  
25 department.

26           (b) The county auditor shall update the list provided to the  
27 department under subsection (a)(3) at least annually before July 1  
28 of each year.

29           **Sec. 21.** The office may not terminate an area for a violation of  
30 the agreement described in section 17 of this chapter until the  
31 office has conducted a public hearing for the purpose of giving all  
32 interested parties an opportunity to comment on the proposal to  
33 terminate the area. Notice of the hearing must be given at least  
34 fourteen (14) days before the hearing in accordance with  
35 IC 5-14-1.5-5(b).

36           **Sec. 22.** (a) Before the first business day in October of each year,  
37 the department shall:

38           (1) calculate the income tax incremental revenue for the  
39 preceding state fiscal year for each area designated under this  
40 chapter; and

41           (2) upon approval of the state board of accounts and the  
42 corporation, direct the treasurer of state to distribute the



1 amount determined under subdivision (1) for each area to the  
 2 county auditor for deposit in the READI fund established  
 3 under section 23 of this chapter.

4 However, the amount distributed in a particular state fiscal year  
 5 under this section to a particular county may not exceed two  
 6 hundred fifty thousand dollars (\$250,000). The total amount that  
 7 may be distributed in a particular state fiscal year under this  
 8 section to all counties may not exceed five million dollars  
 9 (\$5,000,000). To the extent that the total amount that would  
 10 otherwise be distributed in a particular state fiscal year under this  
 11 section to all counties exceeds five million dollars (\$5,000,000), each  
 12 county's distribution shall be proportionately reduced.

13 (b) A sufficient amount is annually appropriated from the state  
 14 general fund to make the distributions required by this section.

15 Sec. 23. (a) Each county that establishes an area under this  
 16 chapter shall establish a rural entrepreneurship area development  
 17 incentives (READI) fund for the county to receive money  
 18 distributed under section 22 of this chapter.

19 (b) Upon appropriation by the county fiscal body, money  
 20 deposited in the READI fund may be used for any of the following  
 21 purposes, after recommendation by a local economic development  
 22 organization in the county:

23 (1) Transferring money to a revolving fund established under  
 24 section 24 of this chapter for purposes of the revolving fund.

25 (2) Transferring money to a regional venture capital fund  
 26 established under IC 6-3.5-7-13.5 or a local venture capital  
 27 fund established under IC 6-3.5-7-13.6 for purposes of the  
 28 funds.

29 (3) Incubator development and operation.

30 (4) Accelerator development and operation.

31 (5) Small business support services.

32 (6) Assisting in the deployment of high speed Internet service  
 33 (as defined by IC 5-28-33-2) within the county.

34 (7) Entrepreneurial internships established in the area that  
 35 partner with high schools located within the county, or  
 36 entrepreneurial classes established at local high schools that  
 37 involve cooperation and collaboration with businesses in the  
 38 area.

39 (c) The fund may not be used for the administrative expenses of  
 40 the fund.

41 Sec. 24. (a) A county designated as an area may establish a  
 42 revolving fund to provide loans to new businesses in the county's



1 area.

2 (b) A county may loan money in the revolving fund established  
3 under this section to a new business, if the county fiscal body finds  
4 that the loan will be used by the new business for one (1) or more  
5 of the following economic development purposes:

6 (1) Promoting significant opportunities for the gainful  
7 employment of Indiana residents in the county's area.

8 (2) Attracting a new business to the county's area.

9 (3) Retaining or expanding the operations of a new business  
10 in the county's area.

11 (c) A county may make the loan from a revolving fund  
12 established under this section on the terms approved by the county  
13 fiscal body.

14 (d) Amounts paid on a loan made from a revolving fund  
15 established under this section shall be deposited in the revolving  
16 fund.

17 **Sec. 25. A county may not issue bonds that:**

18 (1) pledge money deposited in the county's READI fund to  
19 repayment of interest or principal on the bonds; or

20 (2) guarantee repayment of any public or private obligation  
21 from money in the READI fund.

22 **Sec. 26. Two (2) or more counties may enter into a written**  
23 **agreement under this section to jointly carry out the purposes of**  
24 **this chapter in the counties that are parties to the agreement.**  
25 **Counties choosing to form a joint agreement under this section**  
26 **shall be recognized as one (1) county for the purposes of section**  
27 **22(a)(2) of this chapter.**

28 **Sec. 27. (a) The state board of accounts shall audit each READI**  
29 **fund every two (2) years to determine whether:**

30 (1) the appropriate amount of revenue is being transferred  
31 from the state to the county; and

32 (2) money in the county's READI fund is being used for  
33 purposes permitted by this chapter.

34 (b) The state board of accounts shall audit each revolving fund  
35 established under this chapter every two (2) years to determine  
36 whether loans are being made and repaid in compliance with any  
37 applicable statutes and the terms imposed by the county fiscal body  
38 under section 24 of this chapter.

39 **Sec. 28. Upon termination of an area, the balance of any READI**  
40 **fund or revolving loan fund established under section 24 of this**  
41 **chapter and any amounts due to either fund shall be transferred to**  
42 **the state general fund.**



1       **Sec. 29. Notwithstanding any other law, a tax incentive zone**  
 2       **may not be established or expanded in a county:**  
 3       **(1) after the date an area is established in the county; and**  
 4       **(2) before the date the area terminates;**  
 5       **without the approval of the county executive.**  
 6       **Sec. 30. This chapter expires January 1, 2025.**  
 7       **SECTION 4. An emergency is declared for this act.**

